

Glossary: Workers' Compensation

Advisory Rating (Informal) – Is issued by the Office of Benefit Determination (Disability Evaluation Bureau) on non-litigated cases when requested by the employer (or SCIF) and the injured worker. This type of rating is not binding on either party. If either is dissatisfied, a formal hearing before the WCAB may be requested.

Affirmative defense – Defenses in which the burden of proof is on the defendant, e.g. , intoxication, and initial aggressor.

Agreed Medical Examiner (AME) - The agreed upon doctor by all parties to perform the medical evaluation to resolve issues of Permanent Disability (PD), future medical, Vocational Rehabilitation (VR), Permanent & Stationary status (P&S), New & Further disability and questions concerning appropriateness of medical treatment. (How an AME can be used differs slightly for pre and post '91 cases.)

Alternate Work - A different job with your employer when you are found to have work restrictions which prevent you from permanently returning to your usual and customary job.

Application for Adjudication of Claim – A request for the Workers' Compensation Appeals Board (WCAB) to hear both sides of a bona fide dispute and render a decision.

Apportionment – In cases involving pre-existing disease or prior disability the employer shall be held liable only for that portion of permanent disability caused by industrial injury. If the effect of a previous injury or disease can be rated on objective factors and existed at the time of the new injury, apportionment may be indicated. However, there must be irrefutable evidence to support a finding of pre-existing disability.

Apportionment (medical) - A medical opinion attributing a clearly defined portion of an injured's present disability to a pre-existing (or subsequent) non-industrial level of disability. This limits our liability for PD to those related to industrial injuries resulting from employment with our insured.

Arbitration - A method whereby the parties may resolve disputes on those cases in which the date of injury is on or after 1/1/90 and the injured is represented without having to go before a WCAB judge.

Arising Out of Employment and in the Course of Employment (AOE/COE) – Refer to Labor Code requirement that to be compensable, and injury must exist which occurs during the course of an employee performing his/her duties and is a result of the employment.

Attorney Disclosure Statement – A form provided by the applicant's attorney to all clients who engage services for representation before the WCAB or Administrative Director. A copy of this form is provided to the employer or carrier.

Audit Unit - A unit within DWC that receives complaints against claims administrators. These complaints may lead to an investigation or audit of the company's claims handling practices.

Automatic Penalties - Penalties added to a benefit, without an order by the WCAB or any other tribunal or agency.

Binding Arbitration - A dispute is submitted to an arbitrator and the parties agree in advance to abide by whatever the arbitrator decides. This is the method that will be used to resolve items such as lien disputes.

Bona Fide – Authentic, genuine, made in good faith.

Bureau of Fraudulent Claims - The state agency to which fraudulent claims must be reported for insured employers.

Case Law – Law deriving from a particular set of circumstances which thenceforth governs all such instances where similar reasons exist for the support of arguments. Examples are Elizando, Carter, Thomas and Rogers.

Civil Penalties - Penalties that the Administrative Director may assess against insurers for failure to properly handle workers' compensation claims.

Claim Form - A form employer must provide the injured worker within one day of the injury. The completed form must be forwarded to the insurer.

Claims Administrator - This is the term for insurance companies and others who handle your workers' compensation claim.

Commutation – Is a conversion from installment payments of future compensation (PD or Death) to a lump sum payment. The employer receives credit for interest at a rate of 3% per year.

Compromise and Release (C&R) – A voluntary agreement subject to approval by the WCAB, which for a specified amount, releases liability the employer of further liability for the injury(s) specified in the agreement, except Vocational Rehabilitation.

Consultative Rating – May be obtained in litigated cases. It is not an official rating, but is merely advisory and is usually obtained by the parties to assist them in settling a case. A request for a consultative rating may be submitted to the Office of Benefit Determination by either party or jointly by both parties.

Continuance – A referral made at a pre-trial conference for a future date if the case is not ready for trial AND the judge agrees.

Contribution – Right to reimbursement of benefits paid from others where liability is shared; liability is apportioned according to the extent of exposure.

Credit – An account entry that can be asserted for payment of past benefits or against any future benefits that may be due.

Cumulative Trauma (CT) – An injury which occurs as a result of repetitive trauma. None of the individual repeated traumas is generally severe enough to cause injury, but their total effect over a period of time causes the need for medical treatment and/or disability

Date of First Lost Time - The first day for which the injured worker does not receive his full pay. This means that the date of injury can now also be the date of first lost time.

Date of Knowledge (DOK) - The date that the employer learned of an industrial injury. First payments must be made within 14 days of this date and first day of lost time.

Death Benefits - Benefits paid to surviving dependents if a work related injury or illness results in death within five years.

Declaration of Readiness to Proceed (DOR) – Filed with the WCAB when a party is ready to proceed with a hearing.

Defendant - The employer or his/her representative, usually the insurance company.

Deposition – Testimony given under oath, especially in writing.

Determination and Order (D&O) - A decision by the Rehabilitation Unit on a vocational rehabilitation dispute.

Disability Evaluation Unit (DEU) - A unit within DWC that calculates the percent of permanent disability based upon the medical reports.

Discrimination Claims (Labor Code 132a) - A petition filed because your employer has discharged you or otherwise discriminated against you because of your industrial injury.

District Attorney - Self-insured fraudulent cases must be reported to the district attorney in the county where the fraud allegedly took place.

Division of Workers' Compensation - The new name for the Division of Industrial Accidents.

Employee – Any person who performs a service for another under any appointment, contract, or apprenticeship program. Unless excluded, a person will be considered an employee whether the agreement was written, oral, or implied.

Employer – Any person or entity engages in services of another person. Unless excluded, it includes individuals, corporations, partnerships, state, city and county entities, etc.

Finalization – Refers to the conclusion of a case where there is permanent disability and/or future medical care and/or dispute over some issue. The method selected (a formal award, an advisory rating, or a compromise and release) will be the one that best protects the interests of the injured worker and the employer.

Findings & Award (F&A) - A Workers' Compensation Administrative Law Judge's decision finding that an applicant is entitled to disability benefit payments, future medical treatment, or both.

Findings & Order (F&O) - A Workers' Compensation Administrative Law Judge's decision in which no disability payments or future medical treatment is awarded.

First Aid - Any one-time treatment, and any follow-up visit for the purpose of observation, of minor scratches, cuts, burns, splinters, etc. which do not ordinarily require medical care. The one-time treatment and follow-up visit for observation may be provided by a physician or registered professional personnel.

Formal Rating – Is issued on litigated cases at the request of a judge of the WCAB.

Fraud - Any knowingly false or fraudulent material statement for the purpose of obtaining or denying workers' compensation benefits.

Future Medical - On-going entitlement to medical treatment for a work related injury.

Health and Safety Committee - The committee established to help employers establish effective occupational injury and illness prevention programs.

Hearings - Formal proceedings held at the Workers' Compensation Appeals Board (WCAB) before a Workers' Compensation Administrative Law Judge.

In Pro Per - An injured worker or other party who is not represented by an attorney.

Independent Medical Examiner (IME) – A physician or physicians appointed by the Appeals Board and/or compensation judges to examine an applicant and report their findings. Generally used when there is substantial disagreement between the applicant and defense doctors and the parties cannot agree to an AME.

Independent Rehabilitation Representative (IRR) - A fully qualified Vocational Rehab counselor. The requirements are found in L.C. 4635 (c).

Industrial Medical Counsel (IMC) - A group of various types of doctors appointed by different politicians who will regulate the medical aspects of workers' compensation. One of the main goals is to select the Qualified Medical Examiners and to maintain that panel.

Information & Assistance Unit (I&A) – A unit within DWC that provides information to all parties and informally resolves disputes.

Injury – Any disability, irrespective of fault, which is work related. The limitations of the employee injury are as follows: (1) intoxication, (2) self inflicted, (3) suicide, (4) employee is initial aggressor in a fight, (5) felony, or (6) injury caused by recreational activity outside the scope of employment.

Lien - A right or claim for payment against a workers' compensation case.

Light Duty - Temporary change in job assignment to accommodate work restrictions while you are healing. May or may not pay at the same rate as your normal work assignment. Lost wages may be partially made up by Temporary Partial Disability (TPD) payments.

Limited/Modified Duty – A temporary change in the job requirements to allow an employee to return to work during the recovery process.

Litigated Claim - A workers' compensation claim where an Application for Adjudication has been filed.

Mandatory Arbitration - There are several types of cases where arbitration will be mandated based on the amount of permanent disability and the length of time before a case can be tried.

Mandatory Settlement Conference (MSC) - A conference at the WCAB required before a case can be tried.

Mediation Conferences - A voluntary conference held before an I & A Officer to resolve disputes for injured workers who are not represented by an attorney.

Medical Treatment – Treatment necessary to cure or relieve the effects of an injury. This includes medical, hospital, surgical and nursing care as well as any necessary medications, supplies, or appliances. The provider of the treatment may be a medical doctor, chiropractor, osteopath, psychologist, podiatrist, physical therapist, dentist, optometrist, or acupuncturist.

Modified Work - A change in your working conditions in order to accommodate permanent work restrictions determined by your Primary Treating Physician when you have become Permanent and Stationary.

New & Further Disability - Injured may file a 'petition to reopen' a prior Findings & Award within 5 years of the original date of injury. This is most often done if injured suffers an increase in disability stemming from the original injury during this time period. As a result, the award can be increased to compensate injured for the addition permanent disability. (This may also apply to need for medical treatment and VR eligibility/services).

Objectives - Consideration of certain measurable findings such as range of motion in a joint, level of amputation, hearing or visual acuity etc.

Office of Benefit Assistance and Enforcement - This office replaces the Information and Assistance program, and will also conduct the audits of insurers, self insureds, and third party administrators (TPA's). This office will also enforce the new civil penalties.

Office of Benefit Determination - This office will review and approve all vocational rehabilitation plans and will conduct the evaluation of permanent disability.

Order Taking Off Calendar (OTOC) - An order that places a WCAB case in an inactive status.

Panel Qualified Medical Evaluator - A list of three independent qualified medical evaluators issued by the state Industrial Medical Council. You select any one of the three doctors for your evaluation. This is for workers not represented by an attorney.

Party - Normally this includes you, the claims administrator, your employer, attorneys, and any other person who has an interest in your claim (for example, doctors or hospitals that have not been paid).

Permanent and Stationary (P&S) - Maximum recovery. A plateau where no further change in the condition are anticipated. (Does not mean injured recovers to pre-injury status.)

Permanent Disability (PD) - Indemnity is intended to compensate an injured worker for physical or mental impairment resulting from an industrial injury, which diminishes future earning ability. It is not intended as a wage replacement or to compensate the worker for pain and suffering during the recovery period.

Permanent Disability Advance (PDA) - A voluntary lump sum payment on permanent disability due in the future.

Permanent Disability Payments - Mandatory bi-weekly payments on the undisputed portion of permanent disability, prior to or subsequent to an award.

Permanent Disability Rate - The weekly monetary amount at which the benefit will be paid within the statutory minimums and maximums.

Permanent Disability Rating - A formula that takes into consideration amount of disability (as determined by a doctor), part(s) of body injured, age expressed as a "percentage".

Petition for Reconsideration (Recon) - An appeal of a decision issued by a Workers' Compensation Administrative Law Judge. It must be filed within 20 days of the judge's final decision.

Predesignated Physician - A Primary Treating Physician that can initially treat you if you have advised your employer in writing prior to the industrial injury or illness. You must have seen the predesignated physician prior to selection.

Primary Treating Physician (PTP) - The doctor who has overall responsibility for treatment of your industrial injury or illness. There can only be one PTP at a time.

Proof of Service - A form used to show that documents have been sent to specific parties.

Qualified Injured Worker (QIW) - An injured worker who is entitled to vocational rehabilitation benefits.

Qualified Medical Examiner (QME) - A doctor authorized by the IMC to conduct evaluations in workers' compensations cases.

Qualified Rehabilitation Representative (QRR) - A rehabilitation consultant who meets the requirements specified in L.C. 4635 (b)

Referee – A person who has authority to resolve disputes, approve C&R's , issue stipulated F&A's or frame still disputed issues for trial. WCAB judges oversee referee decisions.

Rehabilitation Unit - A unit within DWC that administratively resolves vocational rehabilitation disputes.

Return-To-Work (RTW) – When an employee returns to his/her normal occupation.

Rules of Evidence – The rules of evidence at the WCAB are more relaxed; the regular rules used in Superior or Municipal Court do not apply at the WCAB.

Rules of Practice and Procedure of the WCAB (WCAB Rules) – Rules and regulations ratified and adopted by the WCAB in accordance with the provisions of the Labor Code.

Serious and Willful Misconduct (S&W) - A petition filed if the injury is caused by the serious and willful misconduct of the employer or the injured worker.

Settlement - A workers' compensation cases may be settled in one of two ways, by a Compromise and Release (C&R) or by a Stipulation with Request for Award (Stip). A C&R usually settles all outstanding issues in a claim for a single lump sum payment. A Stipulation may leave certain issues open, such as future medical treatment and/or vocational rehabilitation.

Specific – An injury that occurs as the result of one incident or exposure that causes disability or need for medical treatment.

State Disability Insurance (SDI) - A branch of the Employment Development Department that pays temporary disability benefits for non-industrial injuries or illnesses.

Stipulation with Request for Award (Stip) - A settlement where the parties agree on the terms of an award. It may include any future medical treatment. Payment takes place over time.

Standard Rating - The amount of permanent disability as determined by the doctor before it is adjusted for age and occupation. Will be expressed as work restrictions, subjective or objective factors.

Statute of Limitations – Setting a time limit on legal actions.

Stipulation – Where there is no dispute in the facts in case or where the facts have been agreed upon or compromised, a written stipulation signed by both parties is submitted to the WCAB for approval with a request for an Order or Award issued pursuant to the stipulation without the necessity of a hearing. Attorney fees should be stipulated or a request made to the WCAB for a fee.

Structured Settlement – Is an alternate form of Compromise and Release which is used when a single lump-sum payment is not in the best interest of all parties, or as an alternative to a lump-sum settlement.

Subjective - Consideration of complaints of pain based on frequency & intensity, which results in a percentage of permanent disability.

Supplemental Litigation Worksheet (SCIF Form 229a) – Used to provide SCIF Legal with additional information after a DOR has been filed.

Subpoena Duces Tecum (SDT) - Issued by the WCAB to command the production of papers, records, documents, upon a showing of possession or control of person named in the subpoena.

Summary Rating - The percentage of permanent disability calculated by the DWC Disability Evaluation Unit based on either the Primary Treating Physician or a Panel QME. This type of rating is only available for workers not represented by an attorney.

Summary Rating Reconsideration - An administrative procedure to object to the Summary Permanent Disability Rating issued by the DWC Disability Evaluation Unit. The request must be made within 30 days of receipt of the summary rating.

Temporary Disability (TD) or Temporary Total Disability (TTD) - A wage replacement benefit paid when your physician reports you cannot work because of an industrial injury or illness.

Toll – Starting the Statute running. “Tolling the statute.”

Transportation Expenses - A benefit to cover your out-of-pocket expenses for mileage, parking, and toll fees related to a claim, usually a reimbursement.

Uninsured Employers Fund (UEF) - If your employer is illegally uninsured, this fund may provide benefits to you.

Venue – The location of filing of a claim. Venue rules intend to establish a rational relationship between the place for filing a claim and either the injured's residence or place of injury. Not subject to stipulation by parties, but can be petitioned for change of venue.

Vocational Rehabilitation (VR) – The benefit that provides an employee who has been determined to be QIW. When an employee participates in VR, he/she continues to receive a maintenance allowance (TD, VRMA, or VRIDL). Applies to dates of injury on or before December 31, 2003.

Vocational Rehabilitation Maintenance Allowance (VRMA) - Formerly known as vocational rehabilitation temporary disability (VRTD).

Wage Loss - Temporary disability benefits that may be paid when an employee returns to work at less than full earnings. Also known as Temporary Partial Disability (TPD).

Work Restriction - “Guidelines for Work Capacity”. Each category A through H is based on the injured's loss of capacity for example (A) – precludes very heavy lifting (loss of $\frac{1}{4}$ of pre-injury lifting capacity) which corresponds to a 10% “standard rating.”

Workers' Compensation Administrative Law Judge - Judges at DWC district offices that conduct hearings, take evidence, issue decisions, and approve settlements.

Workers' Compensation Administration Revolving Fund - The fund to pay for the administration of workers' compensation in California. It is funded by insureds, self insureds and the General Fund (from the state).

Workers' Compensation Appeals Board (WCAB) – The administrative body which administers the workers' compensation law and oversees the decisions of workers' compensation judges and panels.

Workers' Compensation Rate Study Commission - Established for reviewing and recommending how rates will be established in the future.

Work Place Health and Safety Revolving Fund - Established to fund the administration of items mandated in Division 4 of the Labor Code.

Worker's Compensation Insurance Rating Bureau (WCIRB) – Provides information regarding coverage, carriers and employers.

Qualified Injured Worker (QIW) – The designation given when it is medically determined that, due to the industrial injury, an employee will not be able to return to his/her usual and customary job and will need rehabilitation services.

Qualified Medical Examiner (QME) - Physician in post '91 cases whom is used to address disputed issues such as the extent of permanent disability. Must be on a list published by the Industrial Medical Council. Injured is issued a panel of 3 names in each specialty from which one name is chosen.